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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re A.S., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. A.S., Defendant and Appellant.	E066080 (Super.Ct.No. RIJ1501249) OPINION

APPEAL from the Superior Court of Riverside County. Walter H. Kubelun, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Reversed.

Laurel M. Nelson, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Barry Carlton and Sabrina Y. Lane-Erwin, Deputy Attorneys General, for Plaintiff and Respondent.

In 2015 a petition pursuant to Welfare and Institutions Code[1] section 602 was filed against defendant and appellant A.S. (minor), alleging she committed misdemeanor battery on school property (Pen. Code, § 243.2, subd. (a)(1)). In 2016 the juvenile court dismissed the petition after minor completed an informal supervision program, and ordered minor's juvenile court records sealed under section 786. When defense counsel requested the court to order the school to seal its records related to the battery incident, the court denied the request, stating section 786 did not apply to school records. Minor now appeals, arguing the juvenile court erred in denying minor's motion to seal the school records related to her juvenile court proceedings. The People concede the juvenile court erred. We also agree with the parties, and reverse and remand the matter to the juvenile court to allow the court to exercise its discretionary authority.

I[2]

DISCUSSION

Minor argues the juvenile court erred in summarily denying her request to seal her school records relating to the dismissed petition under section 786. She therefore requests the order be reversed and direct the lower court to issue the requested order. The People correctly concede the juvenile court erred in denying minor's request because it

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[1] All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

[2] The details of minor's criminal conduct are not relevant to the limited issue raised in this appeal, and we will not recount them here. Instead, we will recount only those facts and procedural background that are pertinent to the issue we must resolve in this appeal.

incorrectly found section 786 did not apply to school records, but request the matter be remanded for the juvenile court to exercise its discretion whether to order the school records sealed.

Section 786, subdivision (a), provides in pertinent part that if a minor successfully completes informal probation, the juvenile court "*shall* order the petition dismissed. The court *shall* order sealed all records pertaining to that dismissed petition *in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice*. . . ."[3] (Italics added.)

"The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed. Each agency and official named in the order shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and, after advising the court, shall seal the copy of the court's order that was received." (§ 786, subd. (a)(1)-(3).)

The statute further provides that the sealing of records held by an entity is not limited to the court or law enforcement public agencies. Section 786, subdivision (e)(2), provides: "An individual who has a record that is eligible to be sealed under this section *may* ask the court to order the sealing of a record pertaining to the case that is *in the*

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[3] "A court *shall not* seal a record or dismiss a petition pursuant to this section if the petition was sustained based on the commission of an offense listed in subdivision (b) of Section 707 that was committed when the individual was 14 years of age or older . . . ." (§ 786, subd. (d); italics added.) Minor's offense is not one listed in section 707, subdivision (b).

custody of a public agency other than a law enforcement agency, the probation department, or the Department of Justice, and the court *may* grant the request and order that the *public agency* record be sealed *if the court determines that sealing the additional record will promote the successful reentry and rehabilitation of the individual*." (Italics added.)

Effective January 1, 2016, subdivision (e)(1) of section 786 provides: "The court may, in making its order to seal the record and dismiss the instant petition pursuant to this section, include an order to seal a record relating to, or to dismiss, any prior petition or petitions that have been filed or sustained against the individual and that appear to the satisfaction of the court to meet the sealing and dismissal criteria otherwise described in this section." (Stats. 2015, ch. 368, § 1.)

Interpretation of section 786 presents a question of law subject to independent review on appeal. (See *In re Clarissa H.* (2003) 105 Cal.App.4th 120, 125.) " ' "As in any case involving statutory interpretation, our fundamental task is to determine the Legislature's intent so as to effectuate the law's purpose." ' " (*People v. Moreno* (2014) 231 Cal.App.4th 934, 939; see *People v. Cole* (2006) 38 Cal.4th 964, 974.) "We examine the statutory language, and give it a plain and commonsense meaning. . . . If the statutory language is unambiguous, then the plain meaning controls." (*People v. Moreno*, *supra*, at p. 939; see *People v. Cole*, *supra*, at p. 975.) In other words, if there is "no ambiguity or uncertainty in the language, the Legislature is presumed to have meant what it said," and it is not necessary to "resort to legislative history to determine the statute's true

meaning." (*People v. Cochran* (2002) 28 Cal.4th 396, 400-401; accord, *People v. Toney* (2004) 32 Cal.4th 228, 232.)

We agree with the parties that by its express language, the statute allows judicial discretion as to whether records held by a public agency and related to a dismissed petition should be sealed. We also agree with the parties by the statute's plain language, a public school is a "public agency" within the meaning of section 786, subdivision (e)(2). (See Gov. Code, § 53050 ["The term 'public agency,' as used in this article, means a district, public authority, public agency, and any other political subdivision or public corporation in the state, but does not include the state or a county, city and county, or city."]; *Hovd v. Hayward Unified Sch. Dist.* (1977) 74 Cal.App.3d 470, 472 [vocational skills center was not "public agency" within meaning of Government Code section 53051 requiring public agencies to file certain information with Secretary of State and county clerk, since it was a subdivision of a district].)

Minor also argues that the juvenile court abused its discretion in failing to seal her school records relating to the offense because sealing her school records will promote minor's successful reentry and rehabilitation into society. The People do not address this issue, but instead conclude the matter should be remanded for the juvenile court to exercise its discretion whether to order the school records sealed.

We apply the abuse of discretion standard to the issue of whether the juvenile court erred in denying minor's request pursuant to subdivision (e)(2) of section 786. (*In re J.W.* (2015) 236 Cal.App.4th 663, 668 [appellate court reviewed the trial court's denial

of a petition under section 781 to seal juvenile records for abuse of discretion]; *V.C. v. Superior Court* (2009) 173 Cal.App.4th 1455, 1469 [appellate court reviews trial court's decision to grant or deny a section 782 motion to dismiss a juvenile petition under the abuse of discretion standard], disapproved on another point in *In re Greg F.* (2012) 55 Cal.4th 393, 415.) "[A] trial court does not abuse its discretion unless its decision is so irrational or arbitrary that no reasonable person could agree with it." (*People v. Carmony* (2004) 33 Cal.4th 367, 377.) If the record shows that a trial court misunderstood the scope of its discretion, then we must remand for an informed exercise of the power. (Cf. *People v. Fuhrman* (1997) 16 Cal.4th 930, 944 [discretion to strike recidivist finding].)

" '[T]he purpose of the juvenile justice system is "(1) to serve the 'best interests' of the delinquent ward by providing care, treatment, and guidance to rehabilitate the ward and 'enable him or her to be a law-abiding and productive member of his or her family and community,' and (2) to 'provide for the protection and safety of the public . . . .' " ' " (*In re Greg F.*, *supra*, 55 Cal.4th at p. 417; § 202, subd. (b) [public safety is a consideration coequal to rehabilitation].) The purpose of sealing is to protect minors from future prejudice resulting from their juvenile records. (*In re Jeffrey T.* (2006) 140 Cal.App.4th 1015, 1020.) Further, the juvenile delinquency system is not concerned merely with punishing juvenile offenders; rather, it is concerned with rehabilitating them. (*In re J.W.*, *supra*, 236 Cal.App.4th at p. 667.)

Here, based on a thorough analysis of the record, it appears the juvenile court misunderstood its discretion in determining section 786 did not apply to school records.

When defense counsel requested minor's school records relating to the battery incident also be sealed, the juvenile court believed school records were not "part of [section] 786," and denied the request. The court, however, informed defense counsel that counsel "can always bring it back with appropriate case or statutory law" since the court had not found "it yet for [section] 786." It appears the juvenile court abused its discretion because the juvenile court's decision appears to be based on errors. (See *Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 393 ["[A] reasoned decision based on the reasonable view of the scope of discretion is still an abuse of judicial discretion when it starts from a mistaken premise . . . ."]; see also *People v. Cluff* (2001) 87 Cal.App.4th 991, 997 [finding an abuse of discretion where "substantial evidence does not support the critical inference the court relied on in denying [a] motion to strike"].) The juvenile court failed to exercise its discretion in determining whether sealing the school records will promote the successful reentry and rehabilitation of minor.[4] (See *In re J.W.*, *supra*, 236 Cal.App.4th at pp. 667-668.)

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[4] The record indicates in November 2015, Deputy Michael Galvan submitted a letter to the juvenile court on behalf of minor. At the time, he had been assigned as the school resource officer at her school. Deputy Galvan wrote that he interacted with minor on a regular basis and found her to be a "very engaging, bright, friendly, intelligent young lady with an outgoing personality." Having observed her interaction with fellow students and school staff members, Deputy Galvan indicated she had been a "model student" in 2015. Deputy Galvan also indicated minor had shared with him "her aspirations to join the military . . . and become a military police officer." Deputy Galvan opined minor had the ability and drive needed to achieve those goals. The record also showed that minor desired to pursue higher education; that her report was good, her grades had improved with three As, two Bs, a D and F, and had an above 2.0 cumulative grade point average; and that her home behavior was also good. Minor had also completed an anger management program and her community service hours.

Based on the foregoing, we will remand the matter to allow the juvenile court to make a factual determination in the first instance regarding whether sealing minor's school records referring to minor's juvenile court proceedings will promote minor's reentry and rehabilitation.

II

DISPOSITION

The order denying minor's request to seal her school records relating to her juvenile court proceedings is reversed, and the matter is remanded to the juvenile court for further proceedings consistent with this opinion.

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RAMIREZ
P. J.

We concur:

MILLER
J.

SLOUGH
J.